

June 3, 2009

Tom Brim  
President, Association of Building, Mechanical  
and Electrical Inspectors

Trish Glassey  
President, Confidential Employees'  
Organization

Yolanda Cruz  
President, Municipal Employees' Federation

Linda Dittes  
Business Agent, AFSCME, Local No. 101

John Mukhar  
President, Association of Engineers and  
Architects, IFPTE, Local 21

Nancy Ostrowski  
Senior Business Representative, Association of  
Engineers and Architects, IFPTE, Local 21

Ben Belfrey  
President, Association of Maintenance  
Supervisory Personnel

Phyllis Schulz  
Vice President, Association of Maintenance  
Supervisory Personnel

Gay Gale  
President, City Association of Management  
Personnel

Sal Ventura  
Assistant Business Manager, International  
Brotherhood of Electrical Workers, Local No.  
332

Randy Sekany  
President, San Jose Fire Fighters, IAFF, Local  
230

Bill Pope  
Business Representative, International  
Association of Operating Engineers,  
Local No. 3

Daniel Finn  
Board Member, International Association of  
Operating Engineers, Local No. 3

**Re: Letter dated May 29, 2009**

Dear City Union Representatives:

I am writing on behalf of the Mayor and City Council in response to your letter dated May 29, 2009. We sincerely appreciate that our labor leaders recognize the difficult fiscal conditions confronting the City of San Jose and the potential consequences on the important services that the City provides to the community. We also appreciate your intentions to work with us to preserve service levels.

Your letter identifies ten areas of concern that are important to your members and proposes a framework for an agreement with nine of the City's bargaining units related to voluntary concessions. We have reviewed the terms of the proposed agreement. The ten issue areas clearly reflect a diverse set of interests that need further discussion and clarification. I will be following up with the bargaining units to better understand the proposals contained in the framework. It is important that we understand each others' interests and what it means to achieve our shared value of trust and respect in our relationship as we work through these difficult times together. Clearly, these are interests and concerns to both your members and the City. They are significant and merit more discussion. In the interim, however, we wanted to provide you with an initial written response.

Although we sincerely appreciate the spirit of collaboration in addressing the City's fiscal challenges expressed in the letter, the Mayor and the City Council and I are concerned that this letter contains a detailed proposal with terms that were not previously presented to the City Manager and the City's designated negotiators. The concern is neither about the proposal nor the response being made public. We are concerned, however, about maintaining the integrity of the negotiation process by having proposals presented to the designated negotiators rather than by-passing those negotiators.

We would like to take this opportunity to make sure you are aware of City Council Policy 0-39 (enclosed) adopted on March 4, 2008. The purpose of this policy is to establish labor negotiation guidelines for the City Council and Council staff to ensure labor negotiations are conducted in good faith and to avoid actions that would circumvent the City's designated bargaining team. As the policy indicates, the City has a right to insist that negotiations take place at the bargaining table. The policy also states that members of the City Council shall not knowingly respond to or discuss any proposals not presented to the negotiating team. We seek your cooperation by presenting proposals through the designated negotiators.

As you know, every one of your bargaining unit contracts are at different stages. Regarding what we are asking of our bargaining units in Fiscal Year 2009-2010 in terms of wages, the City's goal is to achieve a true wage freeze for the upcoming fiscal year. This would mean no wage increases, no merit increases, and no automatic 5% "step" increases.

If we were to achieve a true wage freeze, it would save a total of \$15.2 million, which includes \$11.9 million in the General Fund. (Please see enclosed a chart of savings from a true wage freeze.) The savings from a true wage freeze would help avoid reductions in important City services and would save City jobs for employees who provide those services to the community.

As you know, four of the City's ten bargaining units have previously negotiated wage increases in the upcoming fiscal year: POA, MEF, CEO and CAMP. Of the \$15.2 million savings from a true wage freeze, the contracts with previously negotiated 1.5% general wage increases comprise \$12.5 million. A freeze of step increases for IAFF, Local 230 would save approximately \$1.5 million. The City is committing to use the money from a true wage freeze to reduce expenses, preserve City services, and preserve the jobs for City employees to provide those services.

We very much appreciate ABMEI's willingness to propose a temporary pay reduction through reduced work hours. However, other than that agreement, we do not yet have any other ratified agreements with any other bargaining unit for a true wage freeze in Fiscal Year 2009-2010.

In order for the City Council to know whether or not they can count on the savings from a true wage freeze when they make the very difficult decisions in balancing the budget, we need to reach agreements with the units with whom we have discussions underway very soon and receive the ratification results no later than June 12, 2009. Unfortunately, however, we have not been able to agree to all of the terms and conditions requested by some of the bargaining units in order to agree to a true wage freeze in the upcoming fiscal year.

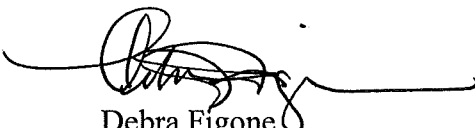
It is important to note that the City's fiscal situation remains challenging even with agreements on a true wage freeze. There are still many unknown impacts on the City's fiscal situation including the impact on the State's fiscal situation. We also face a significant deficit in Fiscal Year 2010-2011 as well as the impact of the approximately \$1.146 billion decline in the total market value of the assets in the two retirement plans since the beginning of Fiscal Year 2008-2009.

Some of the ten issue areas in your proposal are very complex and are not related to a true wage freeze. In addition, some of them may restrict the City's options to deal with the continued fiscal challenges. That does not mean, however, that the issues you have raised do not merit further discussion, and as I mentioned, I will be following up with the bargaining units. We do not, however, want these issues to delay our efforts to achieve a true wage freeze in Fiscal Year 2009-2010. A key question is how these issues are linked to the current discussions with the various bargaining units or if they are items that need to be discussed separately. In addition, your letter introduces new items, all of which have not been raised by all of the bargaining units and some of which do not appear to apply to all of the bargaining units, and there are ratification votes currently underway that do not include these items.

We will be continuing our on-going discussions with individual bargaining units that have previously negotiated wage increases. We will also be negotiating with the other bargaining units as their contracts come up for re-negotiation.

We can preserve some very important community services and City jobs through a true wage freeze in Fiscal Year 2009-2010. I look forward to continuing working with our labor leaders in our efforts to preserve vital City services.

Sincerely,



Debra Figone  
City Manager

Enclosures

c: Alex Gurza, Director of Employee Relations

## COUNCIL POLICY

<b>TITLE</b> COUNCIL LABOR NEGOTIATION GUIDELINES	<b>PAGE</b>  1 of 2	<b>POLICY NUMBER</b>  0-39
<b>EFFECTIVE DATE</b> March 4, 2008	<b>REVISED DATE</b>	
<b>APPROVED BY COUNCIL ACTION</b>		3/4/2008, Item 3.6, Res. No. 74265

### BACKGROUND

Collective bargaining is governed by the Meyers-Milias-Brown Act (MMBA), the City of San José Employer-Employee Relations Resolution (#39367) and the City Charter. The City Charter designates the City Manager as the chief administrative officer of the City. Accordingly, Resolution #39367 delegates the authority to negotiate labor contracts on behalf of the City to the City Manager or the City Manager's designee.

Pursuant to the Meyers-Milias-Brown Act, the City has a right to insist that contract negotiations take place at the bargaining table between the designated representatives of the City and the designated representatives of the various bargaining unit employees. Members of the City Council should refrain from negotiating directly with employee representatives. Both the City and the bargaining units have an obligation under applicable laws to negotiate in good faith.

As used in this policy, "negotiate" means to meet and confer with another to endeavor to reach agreement on matters within the scope of representation.

### PURPOSE

This policy applies only to the Mayor, members of the City Council and Mayor and Council staff.

References in this policy to members of the City Council or Council staff include the Mayor and Mayor's staff.

The purpose of this policy is to set guidelines for the City Council and Council staff to ensure labor negotiations are conducted in good faith and to avoid actions that would circumvent the City's designated bargaining team.

### POLICY

It is the policy of the City Council that all of its members and staff shall abide by the following guidelines when the City Manager or the City Manager's designee is in negotiations with any bargaining unit:

1. Pursuant to San José Resolution #39367, negotiations are conducted by the City Manager through his/her designee. Accordingly, negotiations regarding potential proposals and possible settlement shall occur between the City's designated negotiator(s) and the union's designated negotiator(s).
2. Pursuant to Section 411 of the City Charter, while the Council may express its views to the City Manager, the Council shall not interfere with the execution by the City Manager of his or her authority and duty to negotiate on behalf of the City.
3. Members of the City Council or Council staff shall not negotiate with the bargaining unit representatives or persons acting on their behalf.
4. Nothing in this policy shall prohibit members of the City Council or Council staff from listening to bargaining unit representatives or persons acting on their behalf. Members of the City Council shall not knowingly respond to or discuss any proposals not presented to the negotiating team or any confidential closed session discussion.

<b>TITLE</b>	<b>COUNCIL LABOR NEGOTIATION GUIDELINES</b>	<b>PAGE</b>	<b>POLICY NUMBER</b>
		2 of 2	0-39

5. Members of the City Council and City Council staff shall disclose to the City Manager and to the entire City Council material communications regarding issues related to ongoing negotiations. (See Council Policy 0-32 regarding disclosure of material facts).
6. Authorization and direction to the City's negotiating team is provided in closed session. In order to maintain the integrity of the negotiation process, such authorization must remain confidential.

# General Wage Increases/Step Increases for Fiscal Year 2009-2010

	Negotiated General Wage Increase (All Funds)		5% Step Increases <sup>1</sup> (All Funds)	Merit Increases <sup>2</sup> (All Funds)	Total (General Fund)	Total (All Funds)
	%	Cost	Cost	Cost		
San Jose Police Officers' Association (POA)	1.50%	\$3,108,782	\$2,628,854	-	\$5,737,636	\$5,737,636
Municipal Employees' Federation (MEF)	1.50%	\$2,563,831	\$2,821,659	-	\$3,546,716	\$5,385,490
City Association of Management Personnel (CAMP)	1.50%	\$756,363	-	N/A	\$354,068	\$756,363
Confidential Employees' Organization (CEO)	1.50%	\$250,712	\$373,385	-	\$286,248	\$624,097
International Association of Firefighters, Local 230 ( IAFF, Local 230)		TBD	\$1,510,473	-	\$1,510,473	\$1,510,473
International Union of Operating Engineers, Local #3 (OE#3)		TBD	\$1,020,395	-	\$402,883	\$1,020,395
International Brotherhood of Electrical Workers (IBEW)		TBD	\$145,194	-	\$38,298	\$145,194
Association of Building, Mechanical and Electrical Inspectors (ABMEI)		TBD	\$9,023	-	\$6,484	\$9,023
Association of Engineers and Architects (AEA)		TBD	-	N/A	\$0	\$0
Association of Maintenance Supervisory Personnel (AMSP)		TBD	-	N/A	\$0	\$0
<b>GRAND TOTAL</b>						<b>\$15,188,671</b>
		<b>\$6,679,688</b>	<b>\$8,508,983</b>		<b>\$11,882,806</b>	<b>\$15,188,671</b>

<sup>1</sup> Step Increases are estimates

<sup>2</sup> No merit increases will be available for employees under the Management Performance Program for Fiscal Year 2009-2010

Source: Salary and Fringe Benefit Costs for the 2009-2010 Proposed Budget